(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

CIVIL APPLICATION (REVIEW) NO.8 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Applicant in person.

Mr. Guru Shirodkar, Addl. Govt. Advocate for respondent no.2.

CORAM : B. H. MARLAPALLE, J.

DATE : 28th October, 2004.

P.C.:

Heard Mr. Sertorio S. Facho the petitioner, in person. He had moved this Court by filing Writ Petition No.366/04 challenging the order passed by the learned Civil Judge, Senior Division at Mapusa, on an application filed under Section 151 of the Code of Civil Procedure, in Special Civil Suit No.59/2002.

2. When the suit had come up for hearing before the trial court on 21st November, 2002, the petitioner/plaintiff made an endorsement on the plaint itself

seeking leave to withdraw the plaint and return of half court fees. The trial court passed an order and granted leave to withdraw the suit.

3. On 22nd November, 2002, i.e. on the very next day, the plaintiff submitted an application under Section 151 of the Civil Procedure Code and prayed for recall of the order of dismissal of the suit as withdrawn and he contended that the endorsement seeking leave to withdraw was not voluntary but, in fact, it was under duress. He claims that when the suit was taken up for hearing in the second half on 21st November, 2002, he was threatened by the learned Judge that he would be required to face contempt proceedings and, therefore, he withdrew the suit. The trial court had examined the record and noticed that the endorsement made for withdrawal was purely voluntary. Under these circumstances, this Court rejected Writ Petition No.

366/2004 summarily.

4. The petitioner has moved this review application for recall of the Order dated 26th August, 2004 and he reiterated the same grounds which he had advanced in the Writ Petition. The petitioner's remedy may be somewhere else, but certainly not by way of review as set out in this application. It is clear that this application does not deserve any consideration by this Court and it must fail.

5. Review petition is rejected summarily.

B. H. MARLAPALLE, J.

mc.